

## **REMARKS**

### **I. Introduction**

Claims 16 to 28 are pending in the present application. In view of the following remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

### **II. Information Disclosure Statement**

As regards the information disclosure statement, Applicants did not file the Information Disclosure Statement mentioned in the Final Office Action. None of the application data appearing on the cover sheet corresponds to the current application other than the application serial number. Thus, it appears that this Information Disclosure Statement was intended to be filed in an unrelated application.

### **III. Rejection of Claim 16 Under 35 U.S.C. § 102(e)**

Claim 16 was rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent Application Publication No. 2005/0074919 ("Patel et al."). It is respectfully submitted that Patel et al. do not anticipate claim 16 for at least the following reasons.

Claim 16 relates to a layer system and recites a **passivation layer** that includes a first, at least largely, inorganic partial layer and a second partial layer made of an organic compound.

Patel et al. relate to methods for depositing, releasing, and packaging micro-electromechanical devices on wafer substrates and disclose a sacrificial layer 14, a reflective and conductive layer 22, a first reinforcing layer 18, and a second hinge layer 20. During manufacturing, the sacrificial layer is first deposited after which holes are etched therein by a lithography step followed by a sacrificial layer etch. Para. 0020. The first reinforcing layer 18 is then deposited by chemical vapor deposition. Para. 0021. As indicated in figure 1C, the first reinforcing layer 18 then undergoes lithography and etching to form gaps. *Id.* The second hinge layer 20 is then deposited as indicated in figure 1D. See Para. 0022. After the deposition and etching of the reflective and conductive layer 22, the sacrificial layer 14 is removed (see figure 1E) "in order to 'release' the MEMS structures." Para. 0023. In this regard, both the first reinforcing layer 18 and the second hinge layer 20 clearly have no passivation function whatsoever. Thus, **the first reinforcing layer 18 and the second hinge layer 20 do not**

constitute a passivation layer. As such, Patel et al. do disclose, or even suggest, a passivation layer that includes a first, at least largely, inorganic partial layer and a second partial layer made of an organic compound.

As indicated above, Patel et al. do not disclose, or even suggest, all of the features recited in claim 16. As such, it is respectfully submitted that Patel et al. do not anticipate claim 16.

In view of the foregoing, withdrawal of this rejection is respectfully requested.

#### **IV. Rejection of Claims 17 to 28 Under 35 U.S.C. § 103(a)**

Claims 17 to 28 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Patel et al. and U.S. Patent No. 5,604,380 ("Nishimura et al."). It is respectfully submitted that the combination of Patel et al. and Nishimura et al. does not render unpatentable these claims for at least the following reasons.

Claims 17 to 28 depend from claim 16 and therefore include all of the features recited in claim 16. As more fully set forth above, Patel et al. do not disclose, or even suggest, all of the features recited in claim 16. Nishimura et al. do not disclose, or even suggest, the features of claim 16 not disclosed or suggested by Patel et al. It is noted in this regard that the elements 4, 5, and 6 relied on by the Final Office Action do not form a passivation layer.

In view of the foregoing, it is respectfully submitted that the combination of Patel et al. and Nishimura et al. does not disclose, or even suggest, all of the features of the present claims. Accordingly, withdrawal of this rejection is respectfully requested.

#### **V. Conclusion**

In light of the foregoing, it is respectfully submitted that all of the presently pending claims are in condition for allowance. Prompt reconsideration and allowance of the present application are therefore earnestly solicited.

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